

APPEAL NO. 032815
FILED DECEMBER 11, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on September 23, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) has disability beginning on October 11, 2002, and continuing through the present date of the CCH. The appellant (carrier) appealed, arguing that the determination is against the great weight and preponderance of the evidence so as to be clearly erroneous and manifestly unjust. The claimant responded, urging affirmance.

DECISION

Affirmed.

It was undisputed that the claimant sustained a compensable low back injury in the course and scope of employment with the employer on _____. The sole issue before the hearing officer was whether the claimant sustained disability as a result of the compensable injury sustained on _____, from October 11, 2002, to the present. Section 401.011(16) defines "disability" as the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that he had disability. Conflicting evidence was presented on the disputed issue. A claimant's testimony alone may establish that disability has resulted from the compensable injury. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). Furthermore, medical records are not conclusive or binding on the hearing officer. Texas Workers' Compensation Commission Appeal No. 021994, decided September 23, 2002. The hearing officer was persuaded that the claimant met his burden of proof on the disputed issue and noted that the claimant was credible and truthful. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL RAY OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701-3403.**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge